

Agenda Item #:

4C

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: May 19, 2009

☐ Consent ☐ Regular
☒ Public Hearing

Department

Submitted By: COUNTY ATTORNEY
Submitted For: COUNTY ATTORNEY

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to: adopt Remedial Plan Amendment Ordinance provided for by the Stipulated Settlement Agreement between Palm Beach County and the Department of Community Affairs ("DCA") in the case of Department of Community Affairs et. al. v. Palm Beach County et. al., Case No.: 07-5238 GM (University Drive Comprehensive Plan Amendment).

Summary: Palm Beach County adopted Ordinance 2007-008, as part of its 07-1 Round of Comprehensive Plan Amendments on August 27, 2007, which provided for the removal of University Drive from Lox Road to Palmetto Park Road and Riverside Drive from Palmetto Park Road to Glades Road from the Transportation Element and Map Series in the Palm Beach County Comprehensive Plan. The DCA objected to the removal of the roadway segments, contending that the Amendment failed to mitigate the traffic impacts caused by the proposed removal of the University Drive and Riverside Drive roadway extensions. The DCA filed a Notice of Intent to find the Comprehensive Plan Amendment "not in compliance," and initiated the above-styled formal administrative proceeding challenging the Amendment. The City of Coconut Creek, the City of Coral Springs, and the City of Tamarac intervened on behalf of the DCA, while property owners in the area, Triple H. Ranch Property, Ltd., and DeBuys Property Investment Group, Ltd., and the City of Parkland intervened on the side of the County. On April 21, 2009, the County approved a Stipulated Settlement Agreement with the DCA, providing for additional traffic mitigation measures, including the identification of SR 7 as a Transit Oriented Corridor, County support for a SR 7 Land Use Study and a PD&E Study to further identify traffic mitigation opportunities, as well as a commitment to fund County bus service on SR 7 commensurate with rider demand. DCA Secretary Pelham signed the Agreement on May 1, 2009. Triple H. Ranch Property, Ltd., and DeBuys Property Investment Group, Ltd. also signed the Stipulated Settlement Agreement. Staff proposes a Remedial Plan Amendment to implement the agreed upon traffic mitigation measures. District 5 (ATP)

Continued on Page 3

Attachments:

1. Remedial Plan Amendment Ordinance

Recommended by: _____

County Attorney

Date

Approved by: _____

N/A

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>X</u>	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No _____

Budget Account No.: Fund _____ Department _____ Unit _____ Object _____

Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

*NO INCREASE IN BS SERVICE IS PLANNED FOR THE FISCAL YEAR 2010, FUTURE COSTS ARE
INDETERMINABLE AT THIS TIME.*

[Signature]
OFMB *5/13/09*
5/11/09

[Signature] *5/13/09*
Contract Development and Control

B. Legal Sufficiency:

[Signature]
Assistant County Attorney

C. Other Department Review:

Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

Background and Justification:

Palm Beach County adopted Ordinance 2007-008, as part of its 07-1 Round of Comprehensive Plan Amendments on August 27, 2007, which provided for the removal of University Drive from Lox Road to Palmetto Park Road and Riverside Drive from Palmetto Park Road to Glades Road from the Transportation Element and Map Series in the Palm Beach County Comprehensive Plan. The DCA objected to the removal of the roadway segments, contending that the Amendment failed to mitigate the traffic impacts caused by the proposed removal of the University Drive and Riverside Drive roadway extensions. The DCA filed a Notice of Intent to find the Comprehensive Plan Amendment "not in compliance," and initiated the above-styled formal administrative proceeding challenging the Amendment.

The City of Coconut Creek, the City of Coral Springs, and the City of Tamarac intervened on behalf of the DCA, while property owners in the area, Triple H. Ranch Property, Ltd., and DeBuys Property Investment Group, Ltd., and the City of Parkland intervened on the side of the County. Staff engaged in tentative settlement negotiations with the DCA and the Intervenor. On April 21, 2009, the Board of County Commissioners approved a Stipulated Settlement Agreement and associated Remedial Plan Amendment, which provides for additional traffic mitigation measures, including the identification of SR 7 as a Transit Oriented Corridor, County support for a SR 7 Land Use Study and a PD&E Study to further identify traffic mitigation opportunities, and a commitment to fund County bus service on SR 7 commensurate with rider demand. DCA Secretary Pelham signed the Stipulated Settlement Agreement on May 1, 2009. Triple H. Ranch Property, Ltd., and DeBuys Property Investment Group, Ltd. also signed the Stipulated Settlement Agreement.

Staff propose the adoption of a Remedial Plan Amendment Ordinance, which adopts the traffic mitigation measures provided for by the Stipulated Settlement Agreement as a Remedial Amendment to the County's Comprehensive Plan. If the Board approves the Remedial Plan Amendment Ordinance, the DCA will issue a revised Notice of Intent, indicating its position that the Remedial Plan Amendment is "in compliance." The Intervenor would then have the opportunity to amend their petition to challenge the compliance finding, have the parties re-aligned to reflect the DCA's change in position, and have the case proceed to final hearing.

ORDINANCE NO. 2009 -

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AMENDING THE 1989 COMPREHENSIVE PLAN AS ADOPTED BY ORDINANCE NO. 89-17, AS AMENDED; AMENDING THE FUTURE LAND USE ELEMENT TO ADOPT A POLICY DESIGNATING SR 7 AS A TRANSIT ORIENTED CORRIDOR; AMENDING THE TRANSPORTATION ELEMENT TO REVISE, UPDATE, AND ADD POLICIES RELATED TO THE DESIGNATION OF SR 7 BETWEEN THE BROWARD COUNTY LINE AND GLADES ROAD AS A TRANSIT ORIENTED CORRIDOR, THE PROVISION OF MASS TRANSIT ALONG SR 7, THE DESIGNATION OF CRALLS ON SR 7, THE REMOVAL OF UNIVERSITY DRIVE-RELATED POLICY 1.4-u.2, AND THE COMPLETION OF THE TURNPIKE PD&E STUDY, THE GLADES ROAD PD&E STUDY, THE SR 7 PD&E STUDY, AND THE BOCA RATON MMTD; AMEND THE INTERGOVERNMENTAL COORDINATION ELEMENT TO ADD POLICIES TO ENHANCE THE COUNTY'S COORDINATION EFFORTS RELATED TO THE REMOVAL OF UNIVERSITY DRIVE AND RIVERSIDE DRIVE; AMEND MAP SERIES TO REVISE MAP TE 1.1, & 14.1 REGARDING UNIVERSITY DRIVE, RIVERSIDE RIVE, PALMETTO PARK ROAD AND SR 7; AND AMENDING ALL ELEMENTS AS NECESSARY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE 1989 COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on August 31, 1989, the Palm Beach County Board of County Commissioners adopted the 1989 Comprehensive Plan by Ordinance No. 89-17;

WHEREAS, the Palm Beach County Board of County Commissioners amends the 1989 Comprehensive Plan as provided by Chapter 163, Part II, Florida Statutes; and

WHEREAS, Palm Beach County adopted an amendment to the Comprehensive Plan on August 27, 2007 in Ordinance No. 2007-008; and

WHEREAS, the Department of Community Affairs issued a statement of intent to find the Comprehensive Plan amendment in Ordinance 2007-008 Not in Compliance on October 26, 2007; and

WHEREAS, Palm Beach County and State of Florida Department of Community Affairs entered into a stipulated settlement agreement with the Department of Community Affairs which identifies a remedial amendment to be enacted by Palm Beach County within 60 days following approval of the settlement agreement; and

WHEREAS, the Palm Beach County Board of County Commissioners, as the governing body of Palm Beach County, conducted a single public hearing as provided in section 163.3184(16)(d), Fla. Stat. (1993), commencing the hearing on April 21, 2009 to consider

1 adoption of the Comprehensive Plan amendment consistent with the
2 terms of the stipulated settlement agreement approved on April 21,
3 2009;

4 WHEREAS, this Ordinance repeals and replaces Ordinance No.
5 2007-008 as adopted on August 27, 2007 that amended Palm Beach
6 County's Comprehensive Plan; and

7 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
8 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

9 Part I. Amendments to the 1989 Comprehensive Plan

10 A. **Future Land Use Element**, to add a policy designating SR 7
11 as a Transit Oriented Corridor.

12 B. **Transportation Element**, to revise, update, and add
13 policies related to the designation of SR 7 between the
14 Broward County line and Glades Road as a Transit Oriented
15 Corridor, the provision of mass transit along SR 7, the
16 designation of CRALLS on SR 7, the removal of University
17 Drive-related policy 1.4-u.2, and the completion of
18 Turnpike PD&E, Glades Rd PD&E, SR 7 PD&E and Boca Raton
19 MMTD.

20 C. **Intergovernmental Coordination Element**, to add policies
21 to enhance the County's coordination efforts related to
22 the removal of University Drive and Riverside Drive.

23 D. **Map Series**, to revise map TE 1.1, & 14.1 with regards to
24 University Drive, Riverside Drive, Palmetto Park Road,
25 and State Road 7, to add a note related to a provision of
26 exclusive transit/special use lanes on SR 7 from Broward
27 County Line to Glades Road on map TE 1.1, to depict
28 Palmetto Park Road from Lyons Road to Powerline Rd as 8
29 lanes on map TE 1.1, to remove University Drive and
30 Riverside Drive from Lox Road to Palmetto Park Road from
31 maps TE 1.1 and TE 14.1, and to remove the note (Policy
32 1.4-u.2) on map TE 14.1.
33

1 Part II. Repeal of Laws in Conflict

2 All local laws and ordinances applying to the unincorporated
3 area of Palm Beach County in conflict with any provision of this
4 ordinance are hereby repealed to the extent of such conflict.

5 Part III. Severability

6 If any section, paragraph, sentence, clause, phrase, or word
7 of this Ordinance is for any reason held by the Court to be
8 unconstitutional, inoperative or void, such holding shall not affect
9 the remainder of this Ordinance.

10 Part IV. Inclusion in the 1989 Comprehensive Plan

11 The provision of this Ordinance shall become and be made a
12 part of the 1989 Palm Beach County Comprehensive Plan. The Sections
13 of the Ordinance may be renumbered or relettered to accomplish such,
14 and the word "ordinance" may be changed to "section," "article," or
15 any other appropriate word.

16 Part V. Effective Date

17 The effective date of this plan amendment shall be the date a
18 final order is issued by the Department of Community Affairs or
19 Administration Commission finding the amendment in compliance in
20 accordance with Section 163.3184(1)(b), Florida Statutes, whichever
21 is applicable. No development orders, development permits, or land
22 uses dependent on this amendment may be issued or commence before it
23 has become effective. If a final order of noncompliance is issued
24 by the Administration Commission, this amendment may nevertheless be
25 made effective by adoption of a resolution affirming its effective
26 status, a copy of which resolution shall be sent to the Florida
27 Department of Community Affairs, Division of Community Planning,
28 Plan Processing Team. An adopted amendment whose effective date is
29 delayed by law shall be considered part of the adopted plan until
30 determined to be not in compliance by final order of the
31 Administration Commission. Then, it shall no longer be part of the
32 adopted plan unless the local government adopts a resolution
33 affirming its effectiveness in the manner provided by law.

ATTEST: PALM BEACH COUNTY, FLORIDA,
SHARON R. BOCK, CLERK BY ITS BOARD OF COUNTY &
COMPTROLLER COMMISSIONERS

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

Filed with the Department of State on the _____ day of _____, 2009.

Exhibit 1

- A. **Future Land Use Element**, to revise related to the University Drive and Riverside Drive removal.

REVISIONS: To add a policy related to the designation of SR 7 as a Transit Oriented Corridor. The revision is shown with the added text underlined.

NEW 4.4.9 Transit Oriented Corridor

Policy 4.4.9-a: SR 7 shall be designated a Transit Oriented Corridor from the Broward County line to Glades Road. A Transit Oriented Corridor shall facilitate the use of mass transit by providing for improved local access to transit stops and shall be considered for implementation of premium transit service. The Corridor shall be further defined and implemented considering the recommendations of the SR 7 Transit Supportive Land Use Planning and Urban Design Study. Palm Beach MPO has prioritized this Study for funding and Palm Beach County will strongly encourage the completion of the Study by the end of March 2010, and will coordinate with other parties to effectuate the completion of the Study by that date.

- B. **Transportation Element**, to revise related to the University Drive and Riverside Drive removal.

REVISIONS: To revise, update, and add policies related to the designation of SR 7 between the Broward County line and Glades Road as a Transit Oriented Corridor, the provision of mass transit along SR 7, the designation of CRALLS on SR 7, the removal of University Dr related policy 1.4-u.2, and the completion of Turnpike PD&E, Glades Rd PD&E, SR 7 PD&E and Boca Raton MMTD. The revision is shown with the deleted text ~~struck out~~ and the added text underlined.

NEW Policy 1.1-p: SR 7 Transit-Oriented Corridor

Applicability. The requirements of this Policy shall apply to all Projects located in any Palm Beach County municipality or the unincorporated area of Palm Beach County with significant Project Traffic on SR 7 between the Broward County line and Glades Road ("SR 7 Transit Oriented Corridor") or Project Traffic on a SR 7 Transit Oriented Corridor roadway segment not eligible for de minimis within the Project's Radius of Development Influence. Projects subject to this Policy shall be required to meet Test One as set forth in Policy 1-1.b for Project Traffic impacting the SR 7 Corridor. The requirements of this Policy 1.1-p are supplemental and shall be required in addition to Traffic Performance Standards set forth in Palm Beach County Comprehensive Plan, Policy 1-1.b.

[NOTE: "significant Project traffic" and "Radius of Development Influence" are defined terms in Palm Beach County's land development regulations]

Standard. No Development Order shall be issued by any Palm Beach County municipality or unincorporated Palm Beach County that adds significant Project Traffic or Project Traffic on a SR 7 Transit Oriented Corridor roadway segment not eligible for de minimis within the Project's Radius of Development Influence unless it can be shown to meet the requirements of this Policy.

The applicable vehicular LOS standard for the segment of SR 7 from Broward County line to Glades Road shall continue to be LOS D. Appropriate phases leading to construction shall be supported by Palm Beach County for inclusion in FDOT's 5-Year Work Program for widening to an 8-lane section (2 dedicated transit/ special use lanes and 6 general use lanes). However, when it is projected that the vehicular LOS standard shall be exceeded within 5 years, no further traffic concurrency approvals (per Test 2 of the County's Traffic Performance Standards) impacting the SR 7 Transit Oriented Corridor with significant project traffic shall be granted until the construction phase of the 8-lane cross section is included in the applicable FDOT's 5 Year Work Program.

After construction of the 8-lane cross section for SR 7 has commenced, the vehicular LOS standard shall be the CRALLS volume as specified in Policy 1.2-f (43) of the Transportation Element.

Upon completion of the SR 7 Transit Supportive Land Use Planning and Urban Design Study, the multi-modal standards for the SR 7 Transit Oriented Corridor shall be established considering the outcome of the study no later than the first amendment cycle after completion of the Study.

The applicable vehicular LOS standards for the segment of Lyons Road from Broward County line to Palmetto Park Road and the segment of Palmetto Park Road from Lyons Road to Florida's Turnpike shall continue to be LOS D.

NEW Policy 1.1-q: Palm Beach County shall fund capital and operating costs for the provision of county bus service along SR 7 Transit Oriented Corridor, at a level commensurate with, or exceeding, the County-wide ridership level standards adopted by Palm Tran for the Palm Beach County bus system on a system-wide basis. The County shall fund additional county bus service to the SR 7 Transit Oriented Corridor at such time that the demand for bus service along the corridor warrants the additional service. Calculation of demand warranting additional service shall be made on at least an annual basis. Additional service shall be considered warranted when actual service demand exceeds seated capacity and the number of standees is more than 25% of the seats on a standard 40 foot bus for at least 3 hours during an average weekday. (Note industry standard is 50% on standees). However, the calculation of demand may result in service reductions, if average route ridership falls below the above-mentioned standard for average Palm Tran system ridership per route for a prolonged period of time.

Policy 1.2-f: The Palm Beach County Board of County Commissioners finds the following facilities are constrained facilities and development orders shall be evaluated using the specific level of service standards identified herein instead of the Policy 1.1-b general level of service standards. A County amendment to consider a CRALLS designation will rely upon, as appropriate, the data and analysis provided by the local government requesting the CRALLS designation. Mitigation measures shall be required for any new CRALLS designation adopted after 2001, pursuant to Policy 1.2-q.

(unaltered text omitted for brevity)

43. The following arterial segment is hereby designated as CRALLS facility only for those Projects that add Project Traffic within their radius of development influence to the SR 7 Transit Oriented Corridor, as defined in Policy 1.1-p. This standard shall apply at such time as the arterial segment is widened to the stated cross section below. This standard (including the CRALLS) may be adjusted as necessary based upon the results of the SR 7 Transit-Supportive Land Use Planning and Urban Design Study to be completed by the Treasure Coast Regional Planning Council:

1) SR 7 from Broward County line to Glades Road as 6 lanes plus 2 transit/special use lanes

Peak hour peak direction standard: 3010 vehicles per hour

The following CRALLS Mitigation Measures are to be implemented in conjunction with this CRALLS:

- a) Multi-modal LOS as identified in Policy 1.1-p.
- b) Implementation of Exclusive Transit/ special use lanes on SR 7.

County Engineer shall annually monitor and project the need for improvements (within next 5 years) to Lyons Road and Palmetto Park Road. County shall develop a plan for interim capacity improvements and shall consider including in the County's 5- year Road Program appropriate phases leading to construction of such improvements once projected to be needed.

Policy 1.4-u: The following notes reflect conditions associated with roadway segments in the County's Thoroughfare Right of Way Identification Map (TIM):

1. The extension of Jog Road (Ryder Cup Boulevard) is shown as a public way: from Northlake Boulevard to Thorton Drive, Jog Road is a 120 foot right-of-way with four lanes; from Thorton Drive to Carrick Road, Jog Road is a 60 foot right-of way with two lanes, with the remaining 60 feet of right-of-way owned by the Northern Palm Beach County Water Control District restricted to such uses as public utilities, open space, drainage, pathways and landscaping; and from Carrick Road to PGA Boulevard, Jog Road is a 120 foot right-of-way with four lanes.
- ~~2. University Drive, from the Palm Beach County/Broward County line to Palmetto Park Road, is a 120 foot section with 40 feet of right-of-way to be used for landscaping.~~
- ~~23.~~ SR A1A, from the Broward County/Palm Beach County line to Indiantown Road and from U.S. 1 to the Palm Beach County/Martin County line is restricted to a two-lane roadway.
- ~~34.~~ Lyons Road, from Southern Boulevard to Lake Worth Road, is a 100 foot section that shall be restricted to two through lanes with the remaining right-of-way to be used for drainage, landscaping, pathways, turning lanes, and bicycle paths.
- ~~43.~~ Hood Road, from Alternate A1A to Prosperity Farms Road, is a 60 foot section that shall be restricted to two through lanes with an additional 50 feet to be used for landscaping and buffering.
- ~~56.~~ Jog Road, from Hood Road to approximately 3500 feet north of Hood Road (up to the northern edge of Old Marsh Property), is a 60 foot section and the remaining portion of Jog Road up to Donald Ross Road is a 100 foot section that shall be restricted to two through lanes with the excess right-of-way to be used for drainage, landscaping, pathways, turning lanes, and bicycle paths. This 60- foot restriction does not apply to locations where roundabouts are needed or where the County Engineer requires additional right-of-way.

NEW Policy 1.4-y: The County, through MPO, shall support and encourage Florida's Turnpike Authority during the on-going Project Development and Environmental (PD&E) study to add a northbound auxiliary lane on Turnpike from the Sawgrass Expressway to either Glades Road or to the potential new Palmetto Park Road interchange. Palm Beach County shall also initiate quarterly meetings with Florida's Turnpike Authority for this purpose.

NEW Policy 1.4-z: After the completion of the SR 7 PD&E study, PBC shall reevaluate the adopted transit LOS and the required funding for the SR 7 Transit Corridor.

NEW Policy 1.4-aa: Following the completion of the Glades Road PD&E Study and the adoption of the Boca Raton MMTD, the County will review the PD&E Study and Boca Raton MMTD and will incorporate recommendations from the PD&E Study and Boca Raton MMTD that the County determines to be appropriate into the comprehensive plan in order to support transit alternatives on Glades Road.

C. Intergovernmental Coordination Element, to revise related to the University Drive and Riverside Drive removal.

REVISIONS: To add policies to enhance the County's coordination efforts related to the removal of University Dr. and Riverside Dr. The revision is shown with the added text underlined.

NEW Policy 1.1-t: Palm Beach County will coordinate with other parties, support, and strongly encourage the commencement and funding of the SR 7 PD&E Study to occur in FDOT FY 2011. The County's efforts at coordination shall include, but not be limited to, the initiation of a meeting within 60 days after the effective date of the University Drive Deletion Comprehensive Plan Amendment with all involved parties (including FDOT, Broward County, City of Parkland, and development community) to discuss the assemblage of funding for the Study.

NEW Policy 1.1.u: The County supports widening of Lox Road to 4 lanes and will coordinate to the extent possible with Broward County, Broward MPO, and City of Parkland to accomplish the same.

NEW Policy 1.1.v: Palm Beach County will coordinate with Broward County, PalmTran, Broward MassTransit, and SFRTA as necessary to provide transit services across the County line along the SR 7 corridor. Palm Beach County will recommend the necessary funds be programmed into the Transit Development Programs of each County after the type of service has been identified by the PD&E Study and determined to be appropriate by the respective County.

NEW Policy 1.1.w: Palm Beach County will engage in ongoing intergovernmental agency coordination with the Palm Beach and Broward MPOs, Broward County, local municipalities, and the FDOT that will encourage timely implementation of the common vision for SR 7, including land use issues, and will coordinate and encourage agreement upon transportation network improvements. Efforts to engage in intergovernmental agency coordination may include, but not be limited to, the preparation of lists of projects for inclusion in the cost feasible plan provisions of the LRTPs for the Palm Beach MPO and local five-year schedule of capital improvements and encouragement to the Broward MPO and the Broward County to do the same.

D. **Map Series**, to revise map TE 1.1 & 14.1 with regards to University Drive, Riverside Drive, Palmetto Park Rd, and State Road 7.

REVISIONS: To add a note related to a provision of exclusive transit/special use lanes on SR 7 from Broward County Line to Glades Rd on map TE 1.1, to depict Palmetto Park Rd from Lyons Rd to Powerline Rd as 8 lanes on map TE 1.1, to remove University Dr. and Riverside Dr. from Lox Road to Palmetto Park Rd. from maps TE 1.1 and TE 14.1, and to remove the note (Policy 1.4-u.2) on map TE 14.1

